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THE SOCIAL ASPECT OF NEW YORK POLICE COURTS.

UPON this subject there is no accurate printed information: the law requires a statistical report to be made yearly by the city magistrates, but upon examination it appears that the reports are made up by a police clerk of limited statistical ability, with an apparent intention to give as little useful information as possible. Owing to an oversight both in the laws of 1895 and the charter of 1897, the Board of Magistrates of the second division of Greater New York (Brooklyn, Queens, and Richmond) is not required to make such a report, so that the figures available are for the first division only.

Since the docket of cases is not open to the public, it is not only impossible to find out what cases are called on a particular day, but equally so to learn what has been the disposition of each case. Cases come on with great rapidity, sometimes one a minute, averaging from forty to seventy per day in the different district courts; not infrequently several of a similar nature come on simultaneously—in batches, as it were—as where two or three women are brought in together for soliciting on the streets. The offenses may not have been committed at the same time or place, but it is more expeditious to dispose of them in a lump. In addition, there is the confusion created by a dozen or two police officers, five or six police clerks, roundsmen, attendants,

prisoners, and a motley audience of onlookers in the court, all of whom talk more or less continuously. What the magistrate says can seldom be heard more than ten feet away, while the witnesses and prisoners must come close to the desk to be heard at all. In the midst of such confusion, noise, and incessant movement no one can hope to understand the procedure of the court clearly without some legal training, and perhaps not even then without close connection with the court itself.

By chap. 601 of the *Laws of New York State* for 1895, the old justice courts were abolished and the Board of City Magistrates substituted. Under the charter of Greater New York the police divisions are two: the first division composed of the boroughs of Manhattan and the Bronx, the second of Brooklyn, Queens, and Richmond. The present account is limited to the first division, *i. e.*, Manhattan and the Bronx. For this division there are seven districts and twelve judges, appointed by the mayor in 1895 for a term of ten years, at a salary of \$7,000. Previous to 1895 the justices were elected, and received a salary of \$8,000. By the charter of Greater New York, 1898, magistrates receive a salary of only \$6,000. It is interesting to contrast the salaries of five Boston magistrates, who receive an average of \$4,000 per year. A police magistrate, under the new charter, must be a resident of the city, and must have been admitted to practice as an attorney and counselor-at-law in the courts of the state at least five years previous to the date of his appointment. Other officers of the court are:

Police clerks, who are appointed by the Board of Magistrates for a term of four years, at a salary of \$2,500 per year. The police clerk must give bonds to the amount of \$5,000.

Stenographers: seven, one for each district, appointed and salary fixed by the board.

Interpreters: seven, one for each district, appointed and salary fixed by the board.

Thus the amount of political patronage which each magistrate has under the present law, during a ten-year term of office, is six clerkships, one stenographer's, and one interpreter's position—not a large amount; but the total patronage of the *board*

amounts to forty-two clerkships, plus fourteen other offices—a very considerable number of unusually desirable positions.

In New York city in 1897, 112,637 persons were arrested, of whom 76,859 only were held, committed, or convicted in these courts; that is, of all those arrested only 68 per cent. were held. It is interesting to note that just ten years ago the same percentage was held, and that the per cent. steadily decreased to 54 per cent. in 1894; from 1895 the percentage rapidly rises again to 68 per cent. It is impossible to say whether the decrease in the proportion held was due to leniency, laziness, or partisan favoritism, but it may be surmised that it was the result of all three.

The magistrate has the power of summary proceeding in such matters as disorderly conduct, intoxication, violation of corporation ordinances, vagrancy, sabbath breaking and insanity, ungovernable child, abandoning or threatening to abandon family, suspicious person, etc. As such cases constitute 79 per cent. of the total number brought into court, no others need be considered; the other 21 per cent. are such as assault, attempting suicide, burglary, larceny, homicide, robbery, cruelty to animals, keeping disorderly houses, and violation of various other laws; these are held to be finally tried in other courts and only appear in the magistrate's court in the primary instance.

Nearly 40 per cent. of all cases in this court are for "disorderly conduct," which includes all offenses that directly disturb the peace either by noise or indecency. Of this number women have 9 per cent., which is almost wholly for intoxication, bad language, and soliciting on the streets. If we add the 15.7 per cent. of cases listed under the separate head of "intoxication," for 3 per cent. of which women are responsible, there is a sum total of 55 per cent. attributable to disorderly conduct, for 12+ per cent. of which women are responsible. That is, more than one-half the total work of the court is under this head, and one-eighth of it is attributable to women.

"Violation of corporation ordinances" stands next, with 16 per cent. This comprises such offenses as not carrying a light on wagon or bicycle, and many other minor misdemeanors, not coming under the sanitary law.

Third in the list is "vagrancy," at 8.6 per cent.; a comparison of the figures for the last ten years shows that there has been a steady increase in the number arrested and convicted for this offense. This is partly due to the work of the Charity Organization Society, which has a special officer detailed to oversee the fourteen regular police officers whose duty it is to arrest all beggars and vagrants. Other minor offenses which the judge may dispose of finally, appearing in the table as 1 per cent. or less of the total, are sabbath breaking (chiefly keeping shops open and selling goods in violation of the law), ungovernable child, disorderly persons (abandoning or threatening to abandon family), and "suspicious persons." Concerning this last class the magistrates' report for 1897 says: "Many persons are arrested under suspicious circumstances, such as well-known criminals mysteriously loitering about the streets at night, or frequenting crowded places, or persons having property in their possession for which they can give no good account, nor of themselves. Frequently such arrest is the first step in the detection of some crime, which is investigated, the proper complainant found, a formal complaint taken, and the prisoner held for trial. In many instances such arrest prevents the commission of crime. During the year the total number of such cases amounted to 1,897, of which 1,885 were discharged and 12 cases are pending." It may be that this is a necessary means for the prevention of crime, but it would appear to place an extraordinary power of torture in the hands of the police officer. Doubtless ex-criminals need to be watched for the protection of society, possibly as a deterrent measure, but so long as the police force remains an irresponsible body, moved chiefly by private motives, such power will be more or less abused.

There is no way of ascertaining accurately the number of children and young persons who come into the police courts, as no statistics are published in the report except of those committed to institutions. These are not kept in confinement at the station house, but by the Gerry Society, and an officer of the society comes into court with them to suggest to the magistrate where they should be sent. From observation it appears,

however, that those committed to institutions through the Gerry Society are a very small proportion of the young persons appearing in court. For the majority of children under sixteen no particular safeguards or preventive measures are provided, except such as the judge may devise. The moral atmosphere of the court and the station house is in itself a contamination to any child. A simple and perfectly practical remedy for a part of these evils would be to confine all persons under sixteen years of age in separate cells, out of sight and hearing of other prisoners, and to give them a separate examination in court as soon after arrest as possible.

If all offenses in these courts be reclassified roughly by their social significance, the results are as follows :

<i>Personal vice</i> and self-indulgence, including intoxication, solicitation, keeping disorderly house, and disorderly conduct - - - - -										55	per cent.
Carelessness of public regulations	-	-	-	-	-	-	-	-	-	16	" "
Roving and thriftless disposition	-	-	-	-	-	-	-	-	-	8.6	" "
Thieving	-	-	-	-	-	-	-	-	-	7	" "
Violent temper (indicated by assault, and cruelty to children)	-	-	-	-	-	-	-	-	-	2.5	" "
Carelessness of family relations, ungovernable child, cruelty, abandonment, etc.	-	-	-	-	-	-	-	-	-	1.5	" "
										<hr/>	
										90.6	" "
Miscellaneous	-	-	-	-	-	-	-	-	-	9.4	" "
										<hr/>	
Total	-	-	-	-	-	-	-	-	-	100	" "

From the table it appears that the police and the police court are the regulators of personal conduct in society. As society has become more and more complex, the license of the individual has been progressively curtailed, and the police power has been correspondingly enlarged. As a result, the machinery necessary to regulate public personal conduct has been elaborated without being perfectly adapted to its purpose. Such power is not a trivial or minor matter which society can leave to regulate itself, but is an immense and increasingly important factor in social development, for which no adequate machinery of administration is yet provided. Mayor Hewitt, in his message in 1888,

declares that "the position of police justice is more important to the community than that of judge of the Court of Appeals; the latter finally settles the law, but the former applies it in the first instance, in nearly all cases affecting the life, liberty, and property of the citizens." Mr. Conkling, in *City Government in the United States*, says: "The police magistrate is generally an absolute autocrat in the cases that come before him." To illustrate: in two different districts, on successive days, the magistrate sentenced two women, both "old-timers," for soliciting on the streets; one received a fine of \$10 or ten days, the other a fine of \$500 or six months. The usual penalty for this offense is from \$3 to \$10 fine. This demonstrates, not only the autocratic power, but the widely inconsistent sentences of the magistrates, upon which there appears to be no check except the extreme limit of the law.

There are, too, extraordinary contrasts in the manner, tone, and general behavior of the magistrates. Magistrate No. 1 is an excellent lawyer, but cranky and severe; he lost his temper frequently; complained of the drafts from the windows, while the police guyed him almost openly. A wife appeared before him complaining of abandonment; the husband, on being called to give his testimony, vituperated the wife; the wife "jawed" back, and the magistrate scolded them both, much to the entertainment of the onlookers. He seemed to have a special grudge against foolish, incoherent, and tearful women, though his manner was certainly calculated to frighten out of the prisoner or witness whatever sense she had.

Magistrate No. 2 was a cheerful person, with a rich foreign accent and a lively manner. As one of the police officers in court said: "He plays to the gallery." Magistrate No. 3 was much like No. 2 in manner, but without the accent, and his gay demeanor was attributed to his former experience as a newspaper man. Both Nos. 2 and 3 listened to each prisoner with the ironical, indifferent air of one who had heard all that before and who knew the man lied; neither took the least pains to get from the prisoner what he really had to say in his own behalf, or to give it reasonable consideration. Both signed papers incessantly

while hearing each case, and made facetious, sometimes positively vulgar, comments in the intervals. This kind of spice was evidently much enjoyed by clerks and officers, while the impassive, sodden, tearful, or defiant prisoner took it as a matter of course. Magistrate No. 4 in a quiet, gentlemanly manner glanced at the papers containing the charge, secured the name of the prisoner, addressed him as "Mister" or "Madam," stated the charge, and heard what the prisoner had to say. His patient and deliberate ways were calculated to inspire confidence. He made no sarcastic or witty comments, and, although obliged to work very rapidly, as all the magistrates must, made an evident attempt to grasp the case and to do it justice.

It would seem obvious that a magistrate should be a good lawyer; yet when it is remembered that 79 per cent. of the cases in his court are never appealed, it can be seen that there is not the stimulus to professional ambition which exists in every other court. The contrast between the civil and criminal magistrates, in this respect, is marked. The magistrate sets the social tone of the courtroom; it is therefore of the utmost importance that he should be, above all, dignified and *self-contained*—not playing to the audience either by sarcastic witticisms or by trite and superfluous moralization. If he be really just, he must be patient and must have a thorough knowledge of human nature. A refined and interested manner is of great value in getting at the character of the first offender especially. In short, the police magistrate should be a man of learning, character, experience, and judgment.

Second only in importance to the magistrate is the roundsman who introduces the prisoner to the justice, repeats what he has to say, and acts as general intermediary. The roundsman in the court of Magistrate No. 1, whose irascible temper has been described, was a model officer: patient, kind, reasonable; repeating what the faint-hearted prisoner said, as: "I was drunk, your honor!" or, "It'll be a meritorious act if you'll be aisy on me, your honor!" or, "I've nothing to say, your honor!" He assisted the prisoner to understand what the judge meant, or to make up her mind, or sometimes suggested to the judge that she

was an "old-timer." Such an officer is invaluable in securing a fair trial to the prisoner and a full hearing of the case to the magistrate, not to speak of the real missionary kindness which he has opportunity to display. In other courts, when the same officer performed his duties in a purely mechanical manner, the result was much less satisfactory.

Ninety-six per cent. of all cases appearing in the magistrates' courts are by arrest "without process" — that is, without a warrant. This puts the whole matter of arrest in the hands of the patrolman; and, more important still, the patrolman becomes the chief and usually the sole witness against the prisoner. The prisoner is absolutely powerless against the officer's testimony, unless he bring other witnesses or have a lawyer, which he seldom does. It is well known that the patrolman is often bribed, especially by keepers of disorderly houses and by prostitutes, and the reason is sufficiently apparent in the fact that the judge bases his decision in nearly every case on the patrolman's testimony. It has been said that the poor are dependent for the enforcement of their rights and liberties upon the police court, but the court is primarily dependent upon the patrolman for the material of its decisions. Character in a patrolman is, therefore, of as much importance as in a judge. What the patrolman generally is, is well known: a political henchman, dependent for favor and promotion upon the work which he can do for his party. This work consists in winking at the misdemeanors of favored keepers of saloons and disorderly houses, in helping to "let off easy" all who are protected by the favor of political leaders, and in being virtuously severe and industrious where it will do his party no harm. Until the police force is composed of wise, conscientious, decent men, nothing more than a caricature of justice is possible.

The first step in the reform of the magistrate's court is the reform of the police force itself. It must be (1) taken out of politics absolutely; (2) it must be adequately paid, because its duties require a high quality of character, as well as physique and training; (3) its tenure of office must be for good behavior; and (4) it should possibly have retiring pensions as reward. Such a

police force would insure that no citizen should get into the police court who does not belong there, and that 33 per cent. of all arrests should not be discharged, as at present.

The second step in the betterment of police courts has already been taken in New York city: the magistrates are appointed by the mayor in order that the responsibility may rest obviously and definitely with him and his party; the appointment should be for good behavior, instead of for ten years. No lawyer of real ability is likely to accept such an appointment when he knows that at the end of it he must work into a new line of his profession. Ten years of police-court practice under the present conditions would almost unfit a man for any other sort of law work.

The number of courts should be sufficient so that the magistrate may give proper attention to each case. In the second district in New York the judge has an average of sixty-eight cases per day throughout 365 days in the year, while in the sixth district there is an average of forty-five cases per day. At present Essex Market court is much overcrowded, beside being in an old, dilapidated, unsanitary building.

Visitors who have no real business in court should be excluded. Day after day the courtroom is filled with hangers-on, who look at the procedure as a sort of free theatrical performance. A woman, with three decently dressed children, sat through the whole afternoon, although she had no personal interest in any prisoner. Many people came there day after day for amusement and a comfortable place to sit. The only advantage in the present noisy and confused procedure of the court is that the audience is not so much contaminated as it would be if it could hear and understand.

Sixty per cent. of the persons appearing in the six courts considered were foreign born. The patrolman and the magistrate are the foreigner's chief instructors in the character of government and the rights and duties of citizenship. What sort of political education does he receive, what sort of respect for democratic institutions does he attain from these sources? What wonder that he becomes the blind, irresponsible victim of the

ward-heeler and the spoilsman! He sees those unmolested who "stand in" with the patrolman of his party; he sees criminals brought to justice by men often no less criminal than themselves; he sees government, justice, democratic freedom travestied by an undignified politician on the bench.

Besides the necessary legal and administrative reforms, one thing stands out preëminently: Character, judgment, good temper are the prime qualifications to be desired alike in magistrate and officer. Our political organization and social administration must be such as to insure these qualifications in its officers. Whatever the laws may be, a good judge and a good policeman make a good court.

MARY ROBERTS SMITH.

LELAND STANFORD JR. UNIVERSITY.